IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 54 of 1996

Between:

Chiratanagandla Koteswara Rao S/o. Late Ch. Subrahmanyam
R/o. H.No. 15-7-31, Old Guntur, Guntur.

..... PETITIONER

AND

1 District Collector,
Guntur.
2 Commissioner, Guntur Municipality
Guntur.
3 Revenue Divisional Officer, Guntur,
Guntur.
4 Mandal Revenue Officer, Guntur,
Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a WRIT OR ORDER OR DIRECTION MORE PARTICULARLY ONE IN THE NATURE OF WRIT OF MANDAMUS declaring the action of the Respondents in issuance of the Proceedings No. Lr.Dis.9022/95/B/, dt: 16-10-1995 of the District Collector and consequential order No: D.Dis.2887/90/G1/, dated 21-11-1995 by the Municipal Commissioner, Guntur Municipality, Guntur as arbitrary, illegal, unjustified with a consequential direction to the Respondents not to disturb the possession of the Petitioner herein from the house bearing No: 15-7-31, situated in T.S.No: 49, Block No: 5, Ward No: 6 of Old Guntur, Guntur admeasuring 50 Square Meters and pass

Counsel for the Petitioner: MR.P.GOPAL DAS

Counsel for the Respondent Nos.1, 3 and 4: GP FOR REVENUE

Counsel for the Respondent No.2: MR.K.NAGESWARARAO

The Court made the following:

ORDER:

The petitioner filed this writ petition seeking a writ of mandamus to declare the order of the District Collector, Guntur, dated 16.10.1995, passed in proceedings No.Lr.Dis.No.1022/95/B3 and consequential order dated 21.11.1995, passed by the Municipal Commissioner, Guntur Municipality, wherein the petitioner was directed for removal of encroachment.

It is the case of the petitioner that he is in possession of 50 square meters of land, on which he has erected a thatched shed within the limits of Guntur Municipality. On the ground that his request for assignment of the said land is pending consideration, and in spite of the same, without rejecting his claim, impugned proceedings were passed for removal of his structures.

The learned counsel for the petitioner relied on the reports submitted by the Revenue Divisional Officer to the Collector in proceedings Rc.No.2477/92 A, dated 21.07.1994, wherein the Revenue Divisional Officer, Guntur has addressed to the Collector, Guntur, stating that the encroached occupied area by late father of the petitioner is less than 100 square yards, as such he is eligible for grant of house site on free of cost, as per G.O.Ms.No.331. Further reference is also made with regard to resolution No.1067, dated 29.01.1991, wherein the Municipality has resolved to assign 50 square meters of land to the applicant.

In the impugned proceedings, issued by the Municipal Corporation, there is no reference with regard to request of the petitioner for assignment of land and also with regard to the report of the Revenue Divisional Officer dated 21.07.1994. Though this writ petition is of 1996, no counter affidavits are filed either on behalf of the Collector or on behalf of the Municipal Commissioner.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with a direction to the respondents to consider the request of the petitioner for grant of assignment, if already not considered, and not to evict the petitioner from the land in question, as otherwise in due course of law.

Subject to the above directions, the Writ Petition is disposed of. No order as to costs.

Dated: 21.02.2005

Dsr

ASSISTANT REGISTRAR

To:

1 The District Collector,
Guntur.
2 The Commissioner, Guntur Municipality
Guntur.
3 The Revenue Divisional Officer, Guntur,
Guntur.
4 The Mandal Revenue Officer, Guntur,
Guntur.

5. Two CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (OUT)

6. Two CD copies